

Advisory Report

October 23, 2013



Key Findings:

- Many local governments are required to issue published print notices related to administration and legal functions.
- While some positive changes have been made in recent years related to these publications, the CEC recognizes that these improvements have limited applicability and could be expanded to apply to other bodies, including school districts and municipalities.
- To assist in the expansion of these efforts, the CEC conducted a preliminary review of these functions to explore how their expansion might benefit citizens and taxpayers of Sangamon County.
- The CEC recommends that local governments in Sangamon County work to increase transparency by including legal notices on their websites and persist in efforts to change legislation requiring newspaper publication of complete notices.

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Citizens' Efficiency Commission Recommendation: Mandated Local Government Publications

Introduction

This report represents a formal recommendation by the Citizens' Efficiency Commission (CEC). Members of the CEC and its research staff have validated information contained in this report. The Commission expresses its hope that relevant local leaders will review the recommendation and take strides toward its implementation. Given the nature of its recommendation, the Commission strongly encourages state legislative leaders to take effective action as well.

In light of the research presented below, the CEC recommends that local governments in Sangamon County work to increase public awareness and governmental transparency by posting mandated public notices, legal documents, and reports on their websites and exploring the possibility for using a single website as a central repository for these legal and public notices.

The CEC further recommends that local governments persist in efforts to change legislation requiring newspaper publication of complete notices, and in particular advocate instead that the statutes governing publication of annual financial reports be changed to provide municipalities and school districts the option to post the complete reports online and publish a notice of online availability in a newspaper of record.

The Commission is prepared to provide assistance to the greatest extent possible for the review and implementation of these recommendations. The CEC may be interested in further efficiency considerations that develop based on this advisory report.

Background Information

In pursuing its mission of increased efficiency and effectiveness, the CEC addressed a number of areas where state and federal government constraints prevent local governments from reducing costs to citizens. The CEC examined these areas in light of its goal of assembling a legislative agenda to assist local governments.

One issue that has significant potential for impact and has received repeated legislative review is the question of legally mandated notices and publications. Many local governments have historically been required to post notices and complete information related to audits, assessment details, salaries, treasurer's reports, and other details of basic governmental administration in a newspaper of general circulation in their area.

At a meeting of regional mayors and village presidents in August of 2013, one mayor voiced concerns related to publication costs to his jurisdiction, and indicated that this might be a favorable topic for CEC assistance to

the mayors. This problem and the on-going cost involved were also addressed in comments made to the Commission by the executive director of a special jurisdiction. The Administrative, Management, and Budget Committee reported to the CEC that it would be endeavoring to conduct further research on this issue and received on-going support for this research.

Efficiency Research Questions

As it pursued its research related to this finding, the CEC asked questions such as:

- Is the current system for legal notices and publications the most cost-efficient way of achieving the goal of maximizing public awareness and participation in the activities of local governments?
- How might public notices be made increasingly effective, or improved in terms of access or transparency, with current and developing communication technologies?

Overview of Existing Requirements

In accordance with Illinois law, many units of local government are required to publish legal notices informing constituents of significant aspects of business related to employment, procurement, and taxing powers of those governments.

One resource provides the following brief description and a number of practical illustrations related to what public notices can impact residents:¹

Public notices are announcements from all levels and branches of government, from businesses and from individuals. Newspapers publish thousands of public notices every day, often in their classified advertising sections.

Public notices inform you about government actions, environmental conditions and economic changes. Public notices alert you when the interests of your family, your neighborhood or your business are affected by what others do. Public notices invite you to participate in the democratic process and in business opportunities.

If you haven't looked at your newspaper's public notice section lately, here are a few things you may have missed:

- *the restaurant at the end of your block applied for a liquor license*
- *government agencies are buying the products your company makes*
- *a proposed tax increase is on the school board's agenda*
- *the assets of your late aunt's estate are being distributed*
- *your neighbor has applied for a permit to enlarge her house*
- *the sewer authority is issuing bonds to finance a new plant*
- *your client filed articles of incorporation with the help of another law firm*
- *the state treasurer is holding unclaimed tax refunds*
- *business and residential properties are going up for sale*

¹ Illinois Public Notices, MyPublicNotice.com. 2013. "What are public notices?" Available at: <http://il.mypublicnotices.com/PublicNotice.asp?Page=WhatArePublicNotices>.



Due to time limitations, the CEC has not endeavored to create a comprehensive list of all publications that are required by law. However, local offices submit public notices in the following categorical areas:²

Auctions and Sales; Business and Corporate; Court Proceedings; Elections and Legislation; Foreclosure-Notice; Foreclosure-Sale; Forfeiture; License and Permit; Meeting; Planning and Land-Use; Probate, Guardianship, and Adoption; Public Finance and Taxation; Purchasing and Procurement

There are 118 taxing jurisdictions in Sangamon County, and the CEC estimates that the vast majority of these incur publication costs. While the costs to any one jurisdiction for a single notice may seem small, collectively, this results in substantial costs. For example, Fire Protection Districts, who have minimal publication costs as compared to other districts, budgeted a FY12 average of \$870 annually for publications, among those who reported legal notices as a separate line item.³ For larger entities that have to publish assessment or foreclosure data or more extensive budgets, these costs can increase dramatically. Springfield Metro Sanitary District (SMSD), for instance, budgeted \$5,000 for publishing in FY2013.⁴

As additional examples of publication costs, the CEC found that the City of Springfield typically budgets approximately \$5,000-10,000 annually for publications only related to CWLP functions. The City has additional costs on top of this but could not determine an appropriate estimate of these costs.⁵ School districts are also impacted significantly by publication requirements. The CEC conservatively estimates that at least \$300,000-\$400,000 is spent annually by local governments in Sangamon County for publication of legal notices.

Best Practices & Historical Developments.

As access to and use of internet technologies have become more widespread, many local governments are turning to the internet to publish notices. In Illinois, about 29.9% of the population report not having internet access. This figure is likely lower in Sangamon County due to public library access. ESRI Community Analyst, for instance, estimates that in Sangamon County, 85.9% percent of the population has access to the internet. Although the ESRI does not have data available related to smart phone usage, the CEC finds it reasonable to assume that the percentage of residents with internet access via phone makes this access number even higher. In contrast, newspaper circulation is declining. ESRI estimates on the basis of the American Community Survey that only 43.6% of residents in Sangamon County read any daily newspaper, and only 30.2% read the classified section.

Some improvements to the legal notice process have already been effected. Effective in 2012, Public Act 97-0146 amended The Public Funds Statement Publication Act (30 ILCS 15/). This amendment reduced the amount of information required in some publications, set maximum costs for legal notice space in publications, and required some publications to be published only once. However, these changes did not apply to all types of publications or all

² Illinois Public Notices, MyPublicNotice.com. 2013. "Search Public Notices" Available at: <http://il.mypublicnotices.com/PublicNotice.asp>.

³ CEC calculation based on FY2012 budgets provided by Sangamon County Clerk's Office.

⁴ Springfield Metro Sanitary District. 2013. "BUDGET ORDINANCE NO. 2013-7." Available at: <http://www.spfldmetro.com/pdf/financials/smsd%202013-2014%20budget%20-%20web%20version.pdf>

⁵ Personal communication from William McCarty, Director, Springfield Office of Budget and Management (October 10, 2013).



jurisdictions. Municipalities and school districts were not given the option of putting annual financial reports online and publishing a notice of the online availability in a newspaper.

This act was particularly beneficial for assessment officials in Illinois, due to prior requirements to publish the complete assessment of every parcel being modified to require only limited information and a notice of an online location of the publication. Kane County, Illinois, for example, estimated a savings of 30% annually, from approximately \$225,500 to \$157,200 in General Assessment years (quadrennial reassessment years) and from approximately \$135,000 to \$94,500 in non-General Assessment years.⁶ Median assessment-related publication costs per county were reported at \$22,125 in 2011.⁷

Another requirement in this amendment is that all legal notices are maintained in an online database. Numerous online databases now exist to publish notices electronically after they have been published in print. Public Notice Illinois, the database maintained by the Illinois Press Association, indicates, "Effective December 31, 2012, Illinois law will require that all public notices and legal advertisements published in Illinois newspapers be uploaded to a centralized web site maintained by a majority of Illinois newspapers. This is to be done at no additional cost to any government entity."⁸

Although it is not clear to the CEC whether this law is being fully implemented, even in the event that it is, the CEC suggests that a more effective approach from the perspective of citizens could be to require the newspaper receiving payment for publishing the public notice to post the notice online, rather than requiring citizens to go to the centralized PlugInIllinois.com database. A statewide database containing the published public notices, documents and reports of the more than 6,000 units of local government in Illinois is unlikely to be easily navigated by a citizens seeking specific information about a public meeting or a specific governmental action or report. There are also likely to be issues of timeliness in terms of keeping information current and achieving data. Even in Sangamon County alone, the existence of over 100 taxing jurisdictions creates complexity from the citizen perspective in reviewing public notices.

Particularly in light of these observations, it appears to the CEC that any expansion of the efforts to reduce publication costs as described in these best practice examples here in Illinois may be of benefit. The increases in transparency that accompany online publication of legal notices are already acknowledged in state statute, and accordingly, the CEC explored a number of alternatives for expanding upon these efforts at transparency while reducing local government costs.

Alternatives

Several options are available on a region- and state-wide basis related to the publication of notices and mandates. These alternatives include:

Alternative 1—Maintain the status quo. The CEC finds the status quo to create unnecessary cost burdens for local governments and is not the most efficient or effective way of maximizing public awareness of and participation in the activities of local governments.

⁶ Personal communication Mark Armstrong, Kane County Supervisor of Assessments (July 12, 2013), provided by Tim Bramlet, Bramlet Consulting (August 5, 2013).

⁷ Personal communication from Robert Kahnman, President, County Assessment Officer Association (February 10, 2011), provided by Tim Bramlet, Bramlet Consulting (August 5, 2013).

⁸ PublicNoticeIllinois.com. 2013. "Public Notice Law." Available at: <http://www.publicnoticeillinois.com/>.



Because of online access options, local governments can benefit from an increase in the scope of application for the changes discussed in PA 97-0146.

Alternative 2—Publish notices both in print and via web in their complete form. This option, which is currently in effect as a result of the legislative amendment discussed above, appears to the CEC to be redundant, and does not generate the cost savings that would benefit local governments.

Alternative 3—Publish abridged notices in print and complete notices via web. This alternative would expand the concepts contemplated in the amendment described in PA 97-0146 to cover all types of public notices and all involved jurisdictions. While there may be some drawbacks for constituents with limited internet access, these drawbacks can be circumvented by having public documents available in hard copies at local government locations and having internet use stations in public facilities, such as those existing in public libraries.

Alternative 3a—This alternative is the same as the one described above, but additionally, local governments could work together to develop a central clearing house for all local government public notices, reports, and documents that are mandated by statute or are placed there at the initiative of a unit of local government. This repository could be housed on the website of a larger unit of government, such as Sangamon County. The CEC expects that most citizens are interested in local government activities in their immediate area. While local governments do cross county lines, a county may be the most effective and efficient geographical area for a centralized database of mandated public notices, documents, and reports.

Alternative 4—Publish notices only via web. This alternative, while potentially generating savings benefits even beyond discussed in Alternative 3, could arguably have adverse effects on transparency. The benefit of placing legal notices within a local print publication is that the pool of materials citizens must sift through in order to locate notices is smaller than that available online. Citizens may struggle without instruction to locate legal notices online.

It is important to note that publishing public notices, legal documents, and governmental reports are means to an end. The CEC's charge to look at both efficiency *and* effectiveness causes it to emphasize the goal of maximizing the public's awareness of and participation in the activities of local government. The issue of cost to units of local government from complying with state mandates for publication of public notices and documents is important, and the financial impact of changes in these mandates on newspapers is not irrelevant. However, the public needs to be a partner in any discussions about altering mandates for publishing public notices, legal documents, and government reports.

Use of a public notice forum like PublicNoticellinois.com could alleviate much of this problem, and should certainly be considered. A local/regional database with public notices could go even further to alleviate transparency and access concerns in Sangamon County due to the benefit of having a known central location for all legal notices.

Recommendations

The CEC recommends that local governments in Sangamon County work to increase public awareness and governmental transparency by posting mandated public notices, legal documents, and reports on their websites and exploring the possibility for using a single website as a central repository for these legal and public notices.



The CEC further recommends that local governments persist in efforts to change legislation requiring newspaper publication of complete notices, and in particular advocate instead that the statutes governing publication of annual financial reports be changed to provide municipalities and school districts the option to post the complete reports online and publish a notice of online availability in a newspaper of record.

The benefits of implementing the two recommendations detailed above include:

- Reduced costs to local governments;
- Increased awareness and transparency of public notices, documents, and reports, especially if gathered in a central platform; and
- Local governments could utilize funding currently allocated for publication to cover other expenses, thereby reducing opportunity costs.

Steps toward Implementation

In order to implement this recommendation, the CEC recommends that the following course of action would be beneficial:

- Local officials should work to compile detailed financial data on overall publication costs throughout the county, particularly those not addressed in PA 97-0146.
- Local officials, perhaps through the Regional Leadership Council, should contact peer local governments to begin state-level outreach related to legislative change in this area.
- Local officials should work together through a shared repository to post public notices for the region in a central location, such as the Sangamon County website.

The CEC offers its support for these implementation efforts. If the CEC can provide any further assistance in facilitating efforts toward cooperation, it would be pleased to do so.

Finally, this CEC effort to increase both efficiency and transparency is indicative of a broad theme that the CEC has identified throughout its work. Often, local government efforts to become more efficient and effective are hampered by state or federal level mandates or requirements. The CEC has identified several areas in which these limitations are in play vis-à-vis its own recommendations.⁹ As part of its final report, the CEC hopes to generate a legislative agenda that can guide and assist local governments in working to alleviate these burdens.

Respectfully submitted,

Hon. Karen Hasara, Chair
on behalf of the
Citizens' Efficiency Commission
for Sangamon County

⁹ See, for example, Citizens' Efficiency Commission. June 12, 2013. "Increase Township Cooperation on General Assistance Administration." Available at: <http://www.co.sangamon.il.us/Departments/RegionalPlanning/documents/CEC/General%20Assistance%20Recommendation.pdf>.